IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

RPFC.No. 3 of 2002()

MC.988/1999 of FAMILY COURT, MANJERI

.....

REVISION PETITIONER : PETITIONER IN MC

MANCHERIKATTIL LEELA, 31 YEARS,
D/O.CHANTHU, P.O. PAYYANAD,PAYYANAD AMSOM DESOM,
ERNAD TALUK.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: RESPONDENT IN MC AND STATE

---

1. POOVANCHERI NARAYANAN, 39 YEARS,
S/O.KARAPPAN, VETTIKKATTIRI AMSOM, ERNAD TALUK.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI.K.P.MUJEEB
BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

R.P.(FC) No.3 of 2002

Dated this the 4th day of October, 2007

O R D E R

The revision petitioner is the wife who had initiated proceedings under Section 125 Crl.P.C. claiming maintenance of Rs.500/- per month. The Family Court dismissed the application.

2. It is the case of the revision petitioner that she has given birth to a child in the matrimony and that after sometime the parents of the respondent as well as the respondent/ husband used to ill treat her. It is alleged that she was given eight sovereigns of gold ornaments and some utensils at the time of marriage and that at the instance of the respondent the ornaments were sold and 5 cents of land was purchased in the name of the petitioner/respondent. Subsequently, she executed release deed with respect to her right on the directors of the respondent on the pretext that the same is required for availing a loan. Subsequently, the above property was sold and that the respondent has purchased another item of property in his own name. In 1994, she was severely ill treated by the respondent

and driven out of the home. It is also alleged that he tried to kill her by making her to consume some pesticide. It is alleged that the respondent owned 1 acre of land and that he is getting a monthly income of Rs.1,000/- from his landed property and Rs.3,000/- from his salary. The respondent has contested the matter. According to him, he is a disabled person by birth and the child born is also disabled. According to him, she left him on her own accord. On 25.11.1998, he had filed O.P.No.172/99 seeking restitution of conjugal rights. The same was dismissed. According to him, he is willing to protect her and maintain her if she come and stay with him. It is stated that he is having 40% disability and he is getting only Rs.264/- a week out of his job from the company and which according to him is a temporary job and he has to maintain his aged mother and son.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 and 2, RW1, Exts. P1 and P2, Ext. D1 series and Exts. X1 and X2.

4. The Family court has noted that the respondent is a man having distorted hands and legs and that he is suffering from severe disabilities. It is also noted that there is no evidence

to show that the petitioner had made any complaints before the authorities regarding the alleged ill treatment and attempt to kill her etc. But it appeared to the court below that she left him on her own will. The court has also noted that Ext. P2 document as per which she released her rights in the property is much before the date of her living separately. It is pointed out by the counsel for the revision petitioner that Ext. P2 is dated 22.4.1996. It cannot be said that it is much after the date of Ext. P2 that she left him.

5. PW1 is the Manager of K.P.M. Metal Industries. PW1 has proved Ext. D1 series of pay slips which would show that the respondent was getting Rs.149/- for four and half days of working, Rs.176/- for five days of working and Rs.209/- for six days of working and the wage per day is Rs.48/-. Exts. X1 and X2 are the wage registers. PW1 has stated that respondent is not working in the establishment from January 2001. PW1 has stated that other six workers also along with the respondent has left the company. It was suggested that the company was about to close down due to financial crisis. He has not exactly agreed to the same. He has stated that the above decision is to

be taken by the owner of the company. No objective evidence has been adduced to establish the fact that he is having one acre of land. He has admitted only that he is having 25 cents of land which is owned by him as well as his mother. It is in the above circumstances and in view of the fact that he is looking after the handicapped son and also as it appeared that the petitioner has left him on her on accord that the court below dismissed the application. Considering the evidence adduced in the matter, I find that no interference is called for.

The revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl